

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DONALD W. BOONE,

Petitioner,

No. C 06-0116 PJH (PR)

vs.

ORDER OF DISMISSAL

ARNOLD SCHWARZENEGGER,
Governor of California; and A. P. KANE,
Warden,

Respondents.

Petitioner has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging the governor's reversal of the 2001 decision by the Board of Prison Terms ("Board") finding petitioner suitable for parole. The petition does not challenge the validity of the underlying conviction.

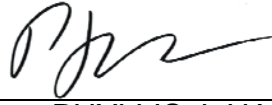
Petitioner has informed the court that he was released on parole on August 8, 2008. The habeas petition is therefore moot. *See Burnett v. Lampert*, 432 F.3d 996, 999-1000 (9th Cir. 2005); *Fendler v. United States Bureau of Prisons*, 846 F.2d 550, 555 (9th Cir. 1988); *Kendall v. Klinger*, 383 F.2d 436 (9th Cir. 1967). The possibility of parole revocation does not present a situation which is "capable of repetition, yet evading review" such that the doctrine of mootness may not apply. *Brady v. United States Parole Comm'n*, 600 F.2d 234, 236 (9th Cir.1979) (citations omitted). That the relief petitioner seeks may result in the possible earlier termination of parole supervision does not circumvent mootness. *See Fendler*, 846 F.2d at 555.

For the foregoing reasons, the petition for a writ of habeas corpus under 28 U.S.C. § 2254 is dismissed as moot.

1 The clerk shall enter judgment in favor of respondent, terminate as moot all pending
2 motions, including petitioner's motion for discovery (doc. no. 12), and close the file.

3 **IT IS SO ORDERED.**

4
5 Dated: August 18, 2008.



PHYLLIS J. HAMILTON
United States District Judge